

BellSouth Telecommunications, Inc

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'04 APR 26 PM 12 56

Guy M. Hicks
General Counsel

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DN REGULATORY AUTHORITY
DOCKET ROOM
April 26, 2004

VIA HAND DELIVERY

Hon. Kim Beals, Pre-Arbitration Officer
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Joint Petition for Arbitration of NewSouth Communications Corp., et al. of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*
Docket No. 04-00046

Dear Ms. Beals:

Recently, the Staff of the Louisiana Public Service Commission ("Louisiana Staff") and the Staff of the Georgia Public Service Commission ("Georgia Staff") made recommendations with regard to BellSouth Telecommunications, Inc.'s ("BellSouth") Motion to Sever or to Impose Procedural Restrictions filed in similar proceedings to the above-referenced proceeding in Louisiana and Georgia.

Although, the Louisiana Staff recommended that BellSouth's Motion to Sever be denied, the Staff did recommend imposing certain procedural restrictions. For example, the Louisiana Staff recommended that the multiple CLEC Petitioners nominate one common witness to testify on behalf of all Petitioners. The Louisiana Staff also recommended that if BellSouth were to object to the testimony on the grounds of hearsay, and the objections are sustained, each Petitioner could have a fact specific witness testify on its behalf. Finally, the Louisiana Staff recommended that each

Hon. Kim Beals, Pre-Arbitration Officer
April 26, 2004
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Petitioner be able to file company specific testimony and have a witness to testify to specific company facts.

The Georgia Staff, like the Louisiana Staff, recommended that BellSouth's Motion to Sever be denied. However, the Georgia Staff also recommended imposing certain procedural restrictions. BellSouth, in a letter dated April 2, 2004, memorialized the clarification sought and received by BellSouth regarding the Georgia Staff's recommendation. The Georgia Staff confirmed that the intent of their recommendation was to mandate that the position taken by each CLEC on each issue in the arbitration must be identical. The Georgia Staff further clarified that not every CLEC must contest every issue.

Finally, the Florida PCS Staff informed the parties two weeks ago that the Florida PSC's procedural order will contain certain procedural restrictions, including the requirement that each witness must file separate testimony.

For the convenience of the Authority, I am enclosing a copy of the Louisiana Staff's recommendation as well as a copy of BellSouth's April 2, 2004 clarification letter filed in Georgia for the Authority's review in the above-referenced docket.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Guy M. Hicks", with a large, sweeping flourish extending to the right.

Guy M. Hicks

GMH:ch

Hon. Kim Beals, Pre-Arbitration Officer
April 26, 2004
Page 2

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Guy M. Hicks

GMH:ch

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

NEWSOUTH COMMUNICATIONS
CORP., KMC TELECOM V, INC.,
KMC TELECOM III, LLC, and
XSPEDIUS MANAGEMENT CO.
SWITCHED SERVICES, LLC, XSPEDIUS
MANAGEMENT CO. OF BATON ROUGE,
LLC, XSPEDIUS MANAGEMENT CO. OF
LOUISIANA, LLC and XSPEDIUS
MANAGEMENT CO. OF SHREVEPORT,
ex parte

In re: Joint Petition for Arbitration of an
Interconnection agreement with BellSouth
Telecommunications, Inc. pursuant to Section
252(b) of the Communications Act of 1934,
as amended.

DOCKET NO. U-27798

FILED

APR 21 2004

MISS. PUBLIC SERVICE
COMMISSION

* * * * *

STAFF MOTION AND RECOMMENDATION RELATED TO BELL SOUTH'S
MOTION TO SEVER OR TO IMPOSE PROCEDURAL RESTRICTIONS

On motion of the Louisiana Public Service Commission ("Commission"), through
undersigned counsel, in response to "*Bellsouth's Motion To Sever Or To Impose*
Procedural Restrictions" ("*Motion*"), Staff recommends the following:

1. That Bellsouth's Motion is denied.
2. As it relates to common testimony, Petitioners nominate one witness ("Common
Witness") to testify on behalf of all Petitioners. There can be a Common Witness
for each issue or sub-issue in dispute. The Common Witness' testimony will inure
to the benefit of all Petitioners.

3. If Bellsouth objects to the Common Witness' testimony on the grounds of hearsay; and the objections are sustained, each Petitioner will have an opportunity to have a predetermined witness ("Fact Specific Witness") testify on its behalf in order to introduce the hearsay testimony of the Common Witness.
4. Each Petitioner will have an opportunity to file company specific testimony and have an opportunity for a witness testify to those company specific facts.

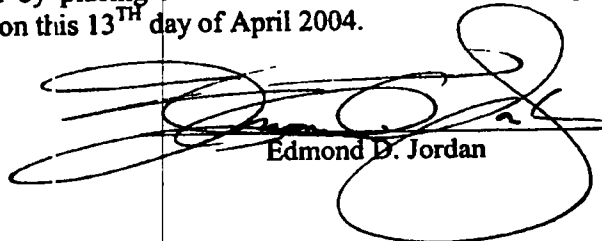
Respectfully submitted:



Edmond D. Jordan (Bar No. 25429)
Staff Attorney
Louisiana Public Service Commission
P.O. Box 91154
Baton Rouge, Louisiana 70821-9154
Ph. (225) 342-9888

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all parties of record by placing same in the United States Mail, properly addressed and postage prepaid, on this 13TH day of April 2004.



Edmond D. Jordan

3. If Bellsouth objects to the Common Witness' testimony on the grounds of hearsay; and the objections are sustained, each Petitioner will have an opportunity to have a predetermined witness ("Fact Specific Witness") testify on its behalf in order to introduce the hearsay testimony of the Common Witness.
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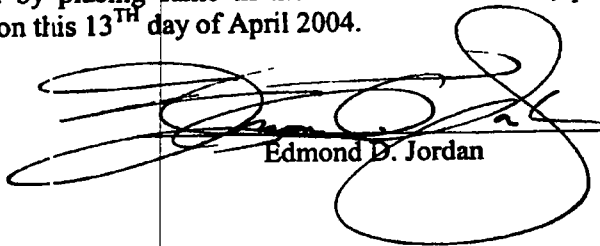
Respectfully submitted:



Edmond D. Jordan (Bar No. 25429)
Staff Attorney
Louisiana Public Service Commission
P.O. Box 91154
Baton Rouge, Louisiana 70821-9154
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Edmond D. Jordan

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Legal Department
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Atlanta, GA 30319-5309

john.tyler@bellsouth.com

John T. Tyler
State Operations Counsel

404 986 1721
Fax 404 986 1800

April 2, 2004

FILED

APR 21 2004

**MISS. PUBLIC SERVICE
COMMISSION**

VIA HAND DELIVERY

Mr. Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334-5701

Re: *In the Matter of: Joint Petition for Arbitration of NewSouth Communications, Corp., et al. of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended; Docket No. 18409-U*

Dear Mr. McAlister:

This letter serves to memorialize the clarification sought and received by BellSouth Telecommunications, Inc. ("BellSouth") during the April 1, 2004 Communications Committee Meeting.

During discussion of agenda item R-4, Docket No. 18409-U, BellSouth requested a clarification of Staff's intent regarding the following recommendation:

While there is a benefit to administrative efficiency, it should not disadvantage BellSouth in its ability to defend its positions. Therefore, the Staff has tailored its recommendation to prevent the representation of conflicting positions among the CLECs on the same issues, thus preventing an even more complex, burdensome proceeding. The Staff recommends that the Commission deny BellSouth's Motion To Sever, and allow the parties to file and proceed in this arbitration jointly, but with the following restrictions: First, the Joint CLECs may only sponsor one witness, or witness panel, for each issue or sub-issue. The purpose of this restriction is to avoid the Joint CLECs stating different positions and seeking different forms of relief with respect to an issue. Second, the CLECs may only

April 2, 2004
Mr. Reece McAlister
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cross examine each BellSouth witness, or witness panel, once. This restriction would not apply if BellSouth were to re-call a witness, or witness panel, for rebuttal. Finally, the CLECs may only sponsor one witness, or witness panel, to address each substantive aspect of each issue.

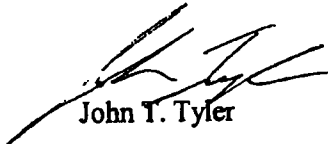
Specifically, BellSouth requested that Staff clarify that the intent of this recommendation was to mandate that the position taken by each CLEC on each issue in the arbitration must be identical. Staff confirmed that this indeed is the intent of the above recommendation. Staff further clarified that not every CLEC has to contest every issue. For example, if only three of the four CLECs have a disagreement with BellSouth on a given issue, then only those three CLECs need to assert an identical position on that issue.

Also, after Staff's clarification, John Heitmann, counsel for the Joint CLECs, opined on behalf of his clients that the recommendation was "reasonable" and neither party objected to proceeding accordingly.

Enclosed herein for filing are an original and seventeen (17) copies, as well as an electronic version, of this letter. I would appreciate your filing same and returning the two (2) extra copies stamped "filed" in the enclosed self-addressed and stamped envelopes.

Thank you for your attention to this matter.

Very truly yours,



John T. Tyler

cc: Mr. Leon Bowles
Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2004, a copy of the foregoing document was served on the following, via the method indicated

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☒ Overnight
- ☒ Electronic

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